

PT 98-74
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

ALLEN CHAPEL A.M.E. CHURCH	)	Docket #s	97-60-26	
OF ALTON	)		97-60-27	
Applicant	)		97-60-28	
	)		97-60-29	
v.	)		97-60-30	
	)	Parcel Index #s	23-2-08-06-17-302-014	
	)		23-2-08-06-17-302-016	) 23-2-08-
06-17-302-015	)		23-2-08-06-17-302-015	
	)		23-2-08-06-17-302-018	
DEPARTMENT OF REVENUE	)		23-2-08-06-17-302-019	
OF THE STATE OF ILLINOIS	)	Barbara S. Rowe		
	)	Administrative Law Judge		

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at 1100 Eastport Plaza Drive, Collinsville, Illinois, on December 12, 1997, to determine whether or not Madison County Parcel Index Nos. 23-2-08-06-17-302-014, 23-2-08-06-17-302-016, 23-2-08-06-17-302-015, 23-2-08-06-17-302-018, and 23-2-08-06-17-302-019 qualified for exemption during the 1997 assessment year.

Michael Brice, trustee of the Allen Chapel A.M.E. Church of Alton (hereinafter referred to as the "Applicant") was present

and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcels during the 1997 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether these parcels were used by the applicant for religious purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned these parcels during all of the 1997 year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant did not use the properties for religious purposes during the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Madison County Parcel Index Nos. 23-2-08-06-17-302-014, 23-2-08-06-17-302-016, 23-2-08-06-17-302-015, 23-2-08-06-17-302-018, and 23-2-08-06-17-302-019 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Department's Exhibits Nos. 1 through 9. (Tr. p. 18)

2. On May 15, 1997, the Department received a property tax exemption application from the Madison County Board of Review for Permanent Parcel Index No. 23-2-08-06-17-302-014. The applicant had submitted the request, and the board recommended a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-60-26 to the application. (Dept. Grp. Ex. No. 2)

3. On May 15, 1997, the Department received a property tax exemption application from the Madison County Board of Review for Permanent Parcel Index No 23-2-08-06-17-302-016. The applicant had submitted the request, and the board recommended a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-60-27 to the application. (Dept. Grp. Ex. No. 3)

4. On May 15, 1997, the Department received a property tax exemption application from the Madison County Board of Review for Permanent Parcel Index No. 23-2-08-06-17-302-015. The applicant had submitted the request, and the board recommended a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-60-28 to the application. (Dept. Grp. Ex. No. 4)

5. On May 15, 1997, the Department received a property tax exemption application from the Madison County Board of Review for Permanent Parcel Index No. 23-2-08-06-17-302-018. The applicant had submitted the request, and the board recommended a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-60-29 to the application. (Dept. Grp. Ex. No. 5)

6. On May 15, 1997, the Department received a property tax exemption application from the Madison County Board of Review for Permanent Parcel Index No. 23-2-08-06-17-302-019. The applicant had submitted the request, and the board recommended a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-60-30 to the application. (Dept. Grp. Ex. No. 6)

7. On August 14, 1997, the Department denied the requested exemption applications finding that the properties were not in exempt use. (Dept. Grp. Ex. No. 7)

8. The applicant timely protested the denial of the exemptions and requested a hearing in the matter. (Dept. Ex. No. 8)

9. The hearing at the Illinois Department of Transportation Building in Collinsville, Illinois, on December 12, 1997, was held pursuant to that request. (Dept. Ex. No. 9)

10. The applicant acquired ownership of the subject parcels by six (6) quit claim deeds dated October 8, 1993, August 10, 1993(2), August 4, 1993(2), and August 5, 1993. On the deeds, the properties were described as “vacant area South of 2214 Elizabeth, Alton, Illinois”. (Dept. Grp. Ex. Nos. 2-6)

11. On the section of the applications for property tax exemptions entitled “Part III – Property Description and Use” wherein days and hours of Services was requested, the applicant wrote “Not in use at this time”. (Dept. Ex. Nos. 2-7)

12. The parcels at issue are undeveloped lands. They are heavily wooded. The applicant has suggested that the areas may be used in the future to erect a multi-purpose community building, an area for Boy Scout activities, or as parking areas. (Dept. Ex. Nos. 2-8, Tr. pp. 19-20, 24)

13. The applicant has had limited use of the property thus far. The applicant has had to remove beer bottles and trash from at least one of the lots. The City has urged the applicant to clear the subject parcels because of apparent gang activities in the area. The applicant has mowed and cleaned up the areas. (Tr. pp. 19-27)

14. The subject parcels are located approximately three blocks from applicant’s church. (Dept. Ex. No. 6)

15. The applicant was granted an exemption from Retailers’ Occupation and related taxes pursuant to an exemption letter issued by the Department on December 16, 1994. (Dept. Ex. Nos. 2-7)

16. I take administrative notice of the fact that applicant’s church was granted a property tax exemption pursuant to Docket Nos. 90-60-666 and 90-60-667.

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property

within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

PURSUANT TO THE AUTHORITY GRANTED BY THE CONSTITUTION, THE LEGISLATURE HAS ENACTED EXEMPTIONS FROM PROPERTY TAX. AT ISSUE IS THE RELIGIOUS EXEMPTION FOUND AT 35 ILCS 200/15-40. THAT PORTION OF THE STATUTES EXEMPTS CERTAIN PROPERTY FROM TAXATION IN PART AS FOLLOWS:

RELIGIOUS PURPOSES, ORPHANAGES OR SCHOOL AND RELIGIOUS PURPOSES. ALL PROPERTY USED EXCLUSIVELY FOR RELIGIOUS PURPOSES, OR USED EXCLUSIVELY FOR SCHOOL AND RELIGIOUS PURPOSES, OR FOR ORPHANAGES AND NOT LEASED OR OTHERWISE USED WITH A VIEW TO PROFIT, IS EXEMPT

The term “religious purpose” as used in the Constitution for exemption from property tax for parcels used for religious purposes means the use of the property by a religious society or by a body of persons as a place for public worship. People ex rel. McCollough v. Deutsche Evangelish Lutherische Jehovah Gemeinde Ungeanderter Augsburgische Confession, 249 Ill. 132 (1911).

The party claiming a tax exemption has the burden of proving that the property clearly falls within the statutory exemption, and there is a presumption that no exemption from property tax is intended. Victory Christian Church v. Department of Revenue, 264 Ill.App.3d 919 (1st Dist. 1994).

At issue are five parcels that the applicant acquired by quit claim deeds in 1993. Therefore, the applicant owned the parcels during the 1997 assessment year. The parcels are overgrown and uninhabitable. The applicant has various tentative purposes in mind for the parcels. Those anticipated uses may not qualify for a property tax exemption.

In Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983) the Illinois Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years.

During the 1997 assessment year, I find that the applicant did not use the parcels for religious purposes. I therefore

recommend that Madison County Parcel Index Nos. 23-2-08-06-17-302-014, 23-2-08-06-17-302-016, 23-2-08-06-17-302-015, 23-2-08-06-17-302-018, and 23-2-08-06-17-302-019 remain on the tax rolls for the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
September 8, 1998